

**41. ISSUE: Re: MACE: IN CONNECTION WITH THE MACE INVESTIGATION OF
DON STAPLEY, DAVID HENDERSHOTT PROCEEDED WITH SECURING
AND SERVING A SEARCH WARRANT ON CALENCE INSIGHT NETWORK
SOLUTIONS WITHOUT APPROPRIATE LEGAL AUTHORITY – SUBJECT:
HENDERSHOTT**

Chief Deputy David Hendershott

H36A. Allegedly, Chief Deputy David Hendershott ordered MACE command personnel, including Executive Chief Scott Freeman, Deputy Chief Terry Young and Deputy Chief Bill Knight, to prepare a Search Warrant Affidavit for Calence Insight Network Solutions. Freeman, Young and Knight informed Hendershott, upon review of the investigative findings, that there was no basis for establishing probable cause. Hendershott, without advising Freeman, Young and Knight of his actions, ordered others to prepare the Search Warrant Affidavit, which was issued by Judge Orr of the University Lakes Justice Court.

H36B. Allegedly, after Freeman, Young and Knight informed Hendershott of the lack of probable cause for the Calence Search Warrant, Hendershott contacted Executive Chief Loretta Barkell by telephone in the evening, and posed various questions to which Barkell responded, without informing her that the information he sought was for a search warrant. Subsequently, the Search Warrant Affidavit was amended to include information from Chief Barkell. Barkell claims that the information attributed to her in the Search Warrant Affidavit was in part erroneous or misleading.

Source: Scott Freeman, Loretta Barkell

DOCUMENTARY EVIDENCE

Exhibit F2. 12/11/09 – Search Warrant Affidavits by Det. T. Abrahamson for Calence/Insight Solutions, 6820 S. Harl Avenue, Tempe, AZ

Exhibit F3. 12/10/09 – Notes

Exhibit F4. 12/11/09 – Search Warrant by Det. T. Abrahamson for Calence/Insight Network Solutions

G1. Page from the Calence search warrant affidavit reviewed with Loretta Barkell during the October 15, 2010 investigative interview.

Barkell indicated that there were two passages in the affidavit, in which information was attributed to her that she considered to be erroneous or misleading. These two passages are as follows.

1 A donation does not involve an extension of taxpayer revenues. The county
2 extended money to the company and it appears something went wrong or was not
3 done correctly and the county received a credit...

4
5 Additionally Chief Barkell advised that each Chief of Staff would have briefed
6 their respective District Supervisor of the item/service, while listed as a donation,
7 was actually a credit for an error. Listing the item/service as a donation would be
8 a way to cover for an error.
9

10 WITNESS ACCOUNTS

11 12 Loretta Barkell

13
14 Loretta advises that she did not know anything about the Calence search warrant until
15 after it was served. Her recollection is that on a Thursday night, while she was on the
16 couch half asleep at home, the phone rang about 8:45 p.m., and it was Hendershott.
17 He had some questions for her, relating to finance and budget, and started asking her
18 questions about revenue and how the County receives revenue and how it was posted.
19 He also asked what is considered a gift, and how it is booked in the County system.
20 She could not recall, in the interview, the exact questions he asked, but she answered
21 the questions to the best of her ability. She did not know why he needed the
22 information, and she did not know that anything she had said was going to be used in a
23 search warrant affidavit.
24

25 Later, Loretta found out that Chief Freeman was livid with her, based on information she
26 had received from Don Schneidmiller, that she had provided information that was used
27 in a search warrant. Subsequently, Scott Freeman came in, closed the door, and
28 provided Loretta with a copy of the search warrant, which she read. There were several
29 sentences that supposedly contained information from Loretta, but she had problems
30 with some of the information attributed to her. She felt that the way that the information
31 she had provided was being used was out of context. Scott Freeman told her that
32 based on Loretta's statements to Hendershott, the Chief Deputy felt that he had enough
33 to move forward with the search warrant and he got a judge to sign it, after Freeman
34 and others had told him not to proceed.
35

36 Freeman asked Loretta why she was contributing to a search warrant operation, which
37 was not her job. She told him that she didn't know anything about a search warrant,
38 and did not know why Hendershott was asking her questions. According to Loretta, she
39 was furious about the way she had been used. Roughly two days later, she got a call
40 from the FBI, and they wanted to talk to her. As she met with them, and showed her the
41 search warrant affidavit. She pointed out to the FBI agent the passages that she did not
42 state. They asked her if she would sign a copy of the affidavit, indicating which
43 information she had not provided, and she did so.
44

1 Loretta related that prior to the "hostile takeover" of the Zone 2 system by MCSO,
2 Hendershott had worked with Cisco trying to get a bid on MCSO setting up its own Zone
3 2 system, but the cost was prohibitive. He was trying to get the bid for the system down
4 to \$6 million, but Cisco could not provide a system for that amount of money. He had to
5 give up that idea, according to Loretta, because MCSO didn't have the money, and then
6 decided on the "hostile takeover." She believes that Hendershott was upset when the
7 donation of Cisco equipment or software appeared as a gift or contribution and she
8 believes that this may have prompted the search warrant.

9
10 I gave Loretta Barkell an opportunity to review the search warrant affidavit, and she
11 turned to page five of seven of the affidavit, which was signed by Abramson on
12 December 11, 2009.

13
14 According to Barkell, the information she did not provide to Hendershott, which was
15 contained in the affidavit, read as follows.

16
17 A donation does not involve extension of tax payer revenues. The County
18 extended money to the company and it appears something went wrong or was not
19 done correctly and the County received a credit.

20
21 The next sentence reads, according to Barkell.

22
23 It is highly unusual for the County to receive such a credit which would then have
24 be tracked internally as it involved the tax payer revenues.

25
26 Barkell indicated that she did make a statement that it would be unusual for the County
27 to receive such a credit, and that it would have to be tracked internally as it involved tax
28 payer revenues. Because it was a credit, the County would have to track it, and it was
29 going to be handled different than tax payer revenues because it was considered a
30 credit and a donation.

31
32 In the next paragraph of the search warrant affidavit, there is a section that reads "listing
33 the items as a donation would be a way to cover for an error." Loretta advises that she
34 did not say this.

35
36 **Scott Freeman**

37
38 According to Freeman, the night before the search warrant was going to be issued on
39 Calence Insight Network Solutions, Hendershott called Scott, Terry Young, and Bill
40 Knight to a meeting on the 19th Floor. Also present were members of the MACE Unit,
41 as well as Bob Rampy. Hendershott indicated that he wanted the search warrants to be
42 taken care of the following day. He instructed the personnel present to get the search
43 warrant affidavits ready to go. Scott and others began reviewing the affidavit, and
44 started asking very pointed questions of the Detectives who had written it. The
45 information contained in the warrant was either not accurate or not verified, and

1 contained hearsay. Bob Rampy, according to Freeman, claimed that he had talked to a
2 "source" who had all of the information. Scott asked Rampy if the source actually
3 physically saw those items being stored in the basement of the building, and Rampy
4 acknowledged that the source had only heard about it. They went through the search
5 warrant line by line, and according to Freeman, most of the affidavit was conjecture or
6 rumor, or information that had been written in a *New Times* article. Scott concluded, by
7 the end, that they could not do a search warrant in the morning, because there was no
8 probable cause. Freeman, Knight and Young all agreed that there was not probable
9 cause, and Freeman told Brandon Luth not to proceed.

10
11 The meeting broke up, and Terry Young was going to tell Hendershott that the search
12 warrant was not going to be ready, because they did not have probable cause.
13 Subsequently, Scott learned, Hendershott called the MACE Unit together, and they
14 made a phone call to Loretta Barkell. The next morning, the search warrant affidavit
15 was submitted and the search warrant was done without or really in contravention to
16 recommendations from Freeman, Knight and Young.

17
18 The following day, he asked what had taken place, and Freeman put it,

19
20 A. ... I asked what the hell was going on. Hendershott threw the search warrant
21 at me and said, you guys just don't know what you're doing. Here, read the
22 search warrant and find out something wrong with it. I looked through it and saw
23 that there was a statement from Loretta Barkell in there. And I went to Loretta
24 and I said, did you say this? She said, I did not. I gave her a copy of the search
25 warrant and I said, you need to know that your words are being used in an
26 affidavit for a search warrant that you apparently just told me you didn't say. She
27 has a copy of the warrant. She has a copy of the document. She'll tell you word
28 for word just what I told you. But they did a search warrant, in my opinion, that
29 didn't have probable cause in it. And according to her, words that were not
30 accurate out of her mouth. (p. 102, Exhibit II14a)

31
32 It was Freeman's understanding that the Detectives asserted that Barkell made the
33 statements attributed to her in the affidavit.

34
35 **Rich Johnson**

36
37 Sgt. Johnson agreed that Terry Young, among others, did not believe that there was
38 sufficient information to establish probable cause for a search warrant on Calence.
39 Johnson provided a long, but helpful, explanation about what he heard transpired with
40 this warrant, even though he had just left for vacation.

41
42 A: What I heard is that during the meeting, there were other Chiefs involved,
43 I think Chief Knight and Chief Freeman, Chief Young. A lot of the, you know,
44 big Chiefs. And that Bob Rampy was there and Chief Hendershott and some of
45 the guys from MACE was there and went through it. And, I guess the consensus

1 from, not only the Detectives involved, but the Chiefs, was there's not enough
2 probable cause. What exactly happened after that I don't know. But what I was
3 told to say come back, they being the MACE folks, come back to the 18th floor. I
4 guess Hendershott either came down or called them up, I don't know. Had a
5 meeting with them. Got Chief Barkell on the phone about some procurement
6 issues. I don't remember. It had something to do with credit versus donation.
7 Stuff I don't understand anyway. That's what it was. It was about a donation of
8 \$500,000.00 for something. From Calence to the county to buy Cisco stuff.
9 That's what it was about. Doesn't matter. So, apparently they talked Chief
10 Barkell into developing this new information. And an affidavit was drafted that
11 night. And they went in the morning and had Judge Orr sign it. I know, from
12 talking to Chief Young after the fact, that he said yeah, we had the meeting and
13 we decided there was no probable cause and that the warrant wasn't going to
14 happen. That's when I talked to Brandon on the phone, it was and then I went
15 home. Brandon called me and said the Chief gave them some more information
16 and, I guess, Young was going on vacation somewhere else on that day. You
17 know, I was gone. He was going to vacation up north or something. Hey, I'm out
18 of town. See Captain Holmes. Have him, I guess this is Chief Young telling
19 Brandon have Captain Holmes review the affidavit and go with you guys to go
20 have it signed just to make sure it's all up and up. I don't know, I know that
21 Young was upset that Brandon didn't have Holmes review it. Brandon had the
22 guys, you know, I'm sure he reviewed it. I don't know. But, had the guys just go
23 get it signed. I know Chief Young was upset by that because he said that before.

24
25 Q: Did you ever speak with Brandon as to what his marching orders
26 were and why he had not reviewed with Young? Or, with Holmes?

27
28 A: Yeah, I did. I talked to Brandon. I don't remember exactly what
29 he said, but it's something to the effect of hey, you know, Chief Hendershott's
30 coming, let's get it done right away. I reviewed it. It looks like there's probable
31 cause. You know, Holmes, er Young told me, you know, if you have problems
32 talk to Holmes. Maybe there was some miscommunication between the two. I
33 don't know. I wish I could answer that.

34
35 Q: Right.

36
37 A: But to back up so you understand this probable cause issue. It was,
38 like I was saying earlier, I don't remember when, but the fall, maybe September,
39 Octoberish, Bob Rampy brought the start on this information to me. And you
40 know Chief Hendershott says you need to get with Bob Rampy. I need a search
41 warrant done on Calence. Whoa. I'm totally in the dark here. What are you
42 talking about? So, I talked to Rampy and that's when I was telling you earlier
43 that we talked about it. I said, listen, I see some issue, but I, there's not enough
44 for probable cause and whoever these people are that you're talking to if you

1 develop more information we're happy to help, or tell us and we'll go develop
2 more information.

3
4So Bob goes and does whatever he does and it was the PIR weekend. That's
5 when you cut me off the last time was the PIR weekend of '09. So, that'd be
6 roughly around Veteran's Day of '09. I was, I worked PIR. I got a phone call
7 from Hendershott saying I need a search warrant drafted this weekend on
8 Calence. Bob has new information. Get with Bob. You can understand working
9 PIR is a very noisy place. And it's very difficult to talk on the phone. Anyway, I
10 talked to Bob. Bob goes through the spiel. It's the same information he had
11 presented earlier. I said Bob, I'm not seeing it, but I tell you what, I'll get a
12 Detective to look at your information to give it a fresh look. Yeah. So I. I'm
13 writing for you to catch up..

14
15I contact Det. Abrahamson. Tim Abrahamson. And I said, listen I need you. I
16 think it was on a Sunday when I had Abe. Maybe it's Saturday I talked to Abe
17 and Adam, meeting up on Sunday. Anyway I know, I'm pretty sure, they met up
18 on a Sunday. I said I want you to meet with Rampy. See what he's got. See if
19 there's, if there's enough for a warrant, if we need to do a warrant. And he says,
20 okay, well, what are your thoughts on it. I'm not telling you what my thoughts
21 are on it. I want you to evaluate it. He calls me and says listen, I've looked
22 through it and Det. Halverson looked through it. There's nothing here boss. But
23 there's not enough probable cause. Okay. Well, I'm glad you said that. That's
24 exactly what I say. That's the decision. I told Chief Hendershott. I don't
25 remember getting any push back on that initially. Told Bob it's not going to
26 happen you need to develop more. That next week, it was Monday, Tuesday,
27 somewhere in there. Hendershott calls and says how is that warrant coming? I
28 said, well, it's not. You know, we don't have enough. Well, get with Bob. I got
29 with Bob. And he goes, well, what are you saying? I said, there's not enough
30 there. There's not enough probable cause to do a warrant. And he goes, you're
31 telling me what Bob has is bullshit? And I said yes. So we're not doing a
32 warrant? I said no, we're not doing a warrant. Okay. (pp. 68-69, Exhibit II20)

33 34 **Bill Knight**

35
36 Although Knight was no longer supervising MACE at the time of this incident, Terry
37 Young had assumed command, Knight was invited to attend a meeting with Young,
38 Halverson, Organized Crime and some other Detectives, including Brandon Luth.
39 Hendershott and Lisa Aubuchon for present for the beginning of the meeting but she did
40 not stay the entire time. Knight could not recall the details surrounding the search
41 warrant on Calence, but remembered that during the meeting, the information presented
42 did not come close to justifying the issuance of a search warrant. He recalled the
43 situation involved Bob Rampy being used by Hendershott as some sort of special
44 investigator. Knight said that the accusation came down to Steve Wetzel, a high level
45 guy at the County (OET), had encouraged the County to purchase Cisco equipment

1 through Calence that was incompatible with the County system, and could not be used
2 by the County. Knight was under the impression that Wetzel was somehow personally
3 benefitting from the purchase. There were no receipts for the alleged purchase or
4 viable proof that it even existed, but Hendershott still wanted them to write the search
5 warrant that night and potentially even execute it that night as well, which was the main
6 reason Hendershott had wanted Knight, Young and Freeman to be involved. When the
7 meeting started, Knight had two Homicide Detectives enroute to help author the
8 warrant, since they were used to writing them, but Knight cancelled their dispatch prior
9 to them even arriving at the meeting based on the scenario.

10
11 Young agreed with Freeman and Knight, but as the head of MACE, Young was
12 responsible for giving the news to Hendershott that the group could not find probable
13 cause for the warrant. Hendershott was upset that the job was not done and ended up
14 helping the Organized Crime group (MACE) write the warrant, or wrote the warrant
15 himself, Knight was not sure. Knight understood that Loretta Barkell was also called
16 during the course of the meeting and assisted, via speaker phone, with answering some
17 financially related questions for the search warrant. Knight later learned that Freeman
18 had presented Barkell with the written search warrant and Barkell told Freeman it was a
19 mischaracterization of what she had said.

20
21 **Brandon Luth**

22
23 According to Sgt. Luth, there was a meeting about the Search Warrant Chief
24 Hendershott wanted done on Calence. In attendance were Hendershott, Knight,
25 Freeman, Young, Luth, a couple of GID Detectives and a few people from MACE. At
26 the time, Rich Burden, who had done the majority of the investigation into Calence, was
27 on vacation and was not in the meeting, leaving Luth to be responsible in his absence.
28 Chief Rumpy was also called into the meeting by Hendershott, who told them what he
29 wanted accomplished and then Hendershott left the meeting. Hendershott's instructions
30 were to serve a Search Warrant on Calence the next day, followed by a second Search
31 Warrant the following day, as part of a strategic plan to move forward with indictments.
32 Based on the information presented, Chief Young and Chief Knight decided that there
33 was not sufficient probable cause to proceed with the Search Warrant, so the Chiefs left
34 to talk with Hendershott and return to report the results. Chief Young said that
35 Hendershott was not happy with their decision and then the Chiefs went home.

36
37 Sgt. Luth and the other MACE staff returned to the 18th Floor to continue working on the
38 Chicanos por la Causa case, which they had served that morning. Those still working
39 included Luth, Dave Tennyson, Tim Abrahamson, John Halverson, Rob Simonson, and
40 maybe two more. Around 6:30-7:00 PM, Hendershott went to the MACE Unit, knocked
41 on Luth's door and told him that they were going to write a Search Warrant. Luth told
42 Hendershott that he was not going to write the warrant, as Hendershott gathered the
43 other MACE staff together. Chief Hendershott started telling the team about what would
44 be in the Search Warrant, including information from a "confidential informant," a County
45 Technology employee, who had been interviewed by Abrahamson and Tennyson.

1 Chief Hendershott monitored the interview and spoke with the informant as well,
2 basically telling the employee about the whistle blower policy and asking the informant
3 to record conversations he had with employees and bosses.

4
5 Hendershott gave specific instructions to MACE to label the person as a "confidential
6 informant" in the Search Warrant and told them to state that the informant would be
7 willing to testify. Luth disagreed with labeling the employee as a confidential informant,
8 but admitted that he did not know the definition or qualifications of an informant.
9 Hendershott told them to include language in the Search Warrant about how the inflow
10 of cash was posted. During the meeting, Hendershott called Loretta Barkell and put her
11 on speakerphone to get her input into the cash flow issues, but the conversation was
12 not recorded.

13
14 A: It was Hendershott talking and pretty much any time he was involved in
15 something we didn't record it. I don't know if that would, yeah, out of protocol
16 or out of the fact that you're not allowed to record a superior or what it was, but
17 we just never ever recorded anything that he was involved in.

18
19 Q: But, there's a lot of people sitting around while she's on speaker?

20
21 A: Yeah.

22
23 Q: Did he tell her, did he tell her...

24
25 A: He basically, he, he said, this is what we're trying to find out about, but
26 the way he asked questions to her was, was to elicit, I guess, the response he
27 wanted. He has a very deliberate way about him, about I guess getting people to
28 say what he wants. So, it was kind of leading, I guess you could say, you know,
29 like if, I don't remember how it was worded but, if, you know, would that be
30 considered highly unusual or suspect, you know, and she'd say yes, you know.
31 But, that conversation occurred, it wasn't recorded. When, when the aff, and
32 basically, so, that whole thing happens, he gives us all the information, I think he
33 leaves at 10:30 at night. (p. 48, Exhibit II25)

34
35 The conversation with Barkell took less than 5 minutes according to Sgt. Luth, and they
36 were able to obtain the information they needed for the Search Warrant. However, Sgt.
37 Luth could not say with certainty, whether or not Hendershott told Barkell that the
38 information he was seeking was for a Search Warrant. Sgt. Luth recalled that
39 Hendershott told Barkell that there were guys from MACE present and told her they
40 were looking into that donation, or however it was termed, but he could not recall if
41 Hendershott said they were preparing a Search Warrant. Those present were taking
42 notes and twice during the meeting, Luth excused himself to call Chief Young and told
43 Young that it sounded like they had more information than what Rampy told them
44 earlier. Luth also expressed to Young that he wanted him to come back to the office,
45 but Young told Luth to just let him know what happens.

1
2 Luth then burned the midnight oil with Halverson and Abrahamson to get the Search
3 Warrant finished, and he did not leave work until 5:00 AM the next morning. Luth had
4 prepared the Search Warrant in accordance with previous instruction from Chief Young
5 on how to present a warrant to a Judge, in a way where it may sound premature, so the
6 Judge does not sign it, but to Luth's chagrin, the Judge signed it and Luth got in trouble
7 with Chief Young.
8

9 A: I felt better about the, I felt better about the warrant, you know, I, I, I think
10 I relayed something along the line like I don't, I don't think necessarily we were
11 quite there yet, I said, but, I definitely feel better about it and pretty much said the
12 conclusion, the way I interpreted the conversation with Young was, you know,
13 was, you know, we're going to write the warrant and Young even told me, you
14 know, Brandon there's ways to talk to the Judge to get him to kind of go the way
15 that you want him to, you know, because we'd, several times in the past we had
16 encountered where Hendershott wanted us to write a warrant we didn't feel like
17 we were there yet, and we felt like we'd be wasting a ton of man hours, a week's
18 worth of man hours putting this thing together just to have the Judge tell us no.
19 So, that was kind of the approach we were taking with this one, is, you know, just
20 have a Judge look at it and, you know, just, you know, have your guys in a
21 nonchalant way maybe say, you know we, Judge, we're not sure if we're quite
22 there yet, you know, something along those lines to get him to hopefully not sign
23 it. Because there was no way, by the time Hendershott left, at, I think it was at
24 10:30, when he left he says, I hate to do this to you boys, but you need to burn the
25 midnight oil, let's get this thing ready and let's get it served tomorrow morning,
26 you know. And we'd already been at work since freaking 5 a.m., and I, I told two
27 guys, I need two people to volunteer to help us write the warrant, I'd stay with
28 them. I was leaving the next morning at like 5 a.m. for my one year anniversary
29 to go to Mexico. And I left at five. Right around there anyway. So, I'm kind of
30 jumping here, I apologize, but...

31
32 Q: Well, who is it that volunteered to stay?

33
34 A: Jim Abrahamson and John Halverson. Tennyson offered, but I'm like,
35 hey, you know, if this warrant gets signed, I need guys fresh tomorrow, you
36 know, I need people to go home and get some sleep, you know, just two people
37 stay here, write the warrant. So, basically, and then, so, the conversation with
38 Young, talk to your guys, have them, basically, convince the Judge not to sign it.
39 I later, in conversations with Young afterwards, he got mad at me because the
40 warrant got signed, and he's like, I thought that we discussed that we would have
41 someone look at it in the morning, why did you have them take it there so
42 freaking early, you know, and I wouldn't, it's like, I wouldn't have done that if I
43 had understood that that's what, necessarily, what he was saying, but, I mean, I
44 just had the guys, the guys, Jonathan set up a meeting with Judge Orr and took it
45 to his house and he signed it at six in the morning, you know. I didn't anticipate

1 that it was going to get signed. So, I got in trouble for that. Young got mad at me
2 about that. I didn't, I didn't necessarily agree that that's what the context of that
3 conversation was, but he's a Chief and I fucked up.... (pp. 50-51, Exhibit II25)
4

5 According to Sgt. Luth, he prepared an operational plan, Halverson worked on logistics
6 and Abrahamson prepared the affidavit. At 4:30 AM, all three of them reviewed the
7 Affidavit, particularly the information provided by Loretta Barkell, and agreed that it was
8 accurate. As far as the portion of the Affidavit about the Confidential Informant, Luth
9 had not reviewed the interview of the Informant, so he did not analyze that portion of the
10 Affidavit. The Affidavit was ready and Luth told Halverson and Abrahamson that when
11 the presented the Search Warrant Affidavit to the Judge, they needed to "convince the
12 Judge, nonchalantly, so it can't come back to bite us in the ass, that we're not there yet,
13 or that we think that we could do more, we're not sure whether we're quite there yet..."
14 (p. 52, Exhibit II25)
15

16 Sgt. Luth went to sleep for an hour and then went home while Halverson and
17 Abrahamson went to get Judge Orr's signature. At approximately 6:15 AM, Halverson
18 called Luth and told him Judge Orr had signed the Search Warrant. Luth said, "You're
19 kidding me," and then called Chief Young to tell him it was signed, and that is when
20 Young yelled at him. Sgt. Luth did not know why Judge Orr was chosen by Halverson,
21 but only assumed that it was because of their recent work together on the Chicanos por
22 la Causa warrant.
23

24 Terry Young

25
26 Young went on to describe in detail his involvement relating to the Calence search
27 warrant.
28

29 A: So then that issue went away for several weeks. Just prior to Christmas, in
30 December, I don't remember the date, but I do know that it was a day prior to me
31 going to Sedona for like an overnight Christmas get-away with Scott Freeman.
32 Rich again gets hold of me and says, you know, the Chief wants to do a Search
33 Warrant, I'm going out of town, Brandon Luth will be here, can you be available
34 for this. So again, this is how, typically this went. Hardly ever did the Chief
35 Deputy get a hold of me to have me involved in any of it. He'd get these guys
36 going and probably a good chunk of what they needed to do they were fine with,
37 'cause they had been working with him under that before, but occasionally
38 something would come up that they just thought, ah, I don't know. And then they
39 would call me and say, can you help us out with this, 'cause we really don't feel
40 right with that. Well, this was in December, again, wanting to go forward with
41 the Calence thing, and so there was a meeting set up for that afternoon, and it
42 wasn't like a question, the Chief was, we're going to do the search warrant. We're
43 going to do it in the morning. Let's get everybody together, Bob Rampy is going
44 to do a briefing, he'll give you all the information. I need the affidavit written up,

1 we got Scott Freeman and Bill Knight involved, because we were going to pull
2 guys from GID, 'cause Calence, that building is huge. So,...

3
4 Q: So was there a meeting?

5
6 A: Yes.

7
8 Q: Alright. Who all was in attendance?

9
10 A: Me, Scott Freeman, Bill Knight, Bob Rampy, Brandon Luth, Tim
11 Abrahamson, I believe John Halverson, but I could be wrong about that. There
12 could have been more, but those guys I know for sure were.

13
14 Q: And the Chief Deputy?

15
16 A: No, he was not there. But he was in the building, this was on the 19th
17 Floor in the Executive Conference Room. In fact I had thought he had left the
18 building, but he was in the Sheriff's Office when we were done. So, we all gather
19 up, Bob Rampy comes in, and I said, okay, Bob, the floor is yours, but I want you
20 to approach this briefing as though I'm a brand new Deputy that just walked in
21 the door and knows nothing about this, because in fact, I don't. I need you to
22 walk me through it from top to bottom and paint a probable cause picture for me
23 to put in an affidavit. So he goes through his spiel of the things that he knows and
24 the hearsay that he has, and he kind of winds down his talking and Tim
25 Abrahamson, I believe, is the one that piped up and said, there's nothing new here
26 from what we knew a month ago. I said, okay, is there something that you're not
27 adding, are you completely done? He goes, that's it in a nutshell. Scott, Bill
28 Knight and I all looked at each other going, I didn't hear it. I said, Bob, if that's
29 all you got, I appreciate it, but we have some more work to do, because we're not
30 there yet. He said, okay. So we had the GID guys stand down, and I made a joke
31 with Freeman, and I said, paper, rock, scissors, for who's going to go tell the boss.
32 He said okay, naw, I'll go tell him.

33
34 Q: You ended up telling Dave?

35
36 A: Yes. And I thought I was going to call him, because I figured he went
37 home, but as I'm walking down the hall I saw he was in the Sheriff's Office, and
38 the Sheriff was still there. So I walked in and I sat on the couch and I said, listen,
39 I know you're kind of excited to get this going but, we just listened to Bob's story
40 and we don't have probable cause to do a search warrant. I mean if there's more
41 work for us to do, we're happy to do it, but I can't get these guys doing a warrant
42 tomorrow, we just don't have what we need to do it. And he, you know, he got,
43 he was frustrated, but he didn't yell or make a big scene, he just said, geez, you
44 know, I think they're just not putting it all together, and I said well, you know,
45 Bob's the one carrying the information, and what he presented, I mean you got

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April 11, 2011

1 guys in a room, me, Scott and Bill, who collectively have been doing
2 investigations a long time, and it's just not there. We're all in agreement on that.
3 So he shook his head, said, okay, fine. And so I figured that's it. So ...
4

5 Q: So this is toward the end of the day, would you say?
6

7 A: This is probably 7ish or so in the evening, 7:00, 7:30.
8

9 Q: Oh, I see, late in the day.
10

11 A: Yeah. So I tell everybody, okay, you know, I'll call ...
12

13 Q: After this meeting with Hendershott?
14

15 A: Yeah. He walks back toward his office, I go down to the conference
16 room, tell everybody, you know, thanks for sticking around. We'll regroup down
17 the road. They all knew I was out the next day. And so was Scott, and we left.
18 And I thought everybody was leaving at that point. I drive home, it's about a 35
19 minute drive. When I get there Brandon Luth calls me and says, hey, we were
20 still downstairs cleaning some stuff up. The Chief Deputy came back down and
21 he wants to meet with us again and go over this information.
22

23 Q: That night?
24

25 A: That night.
26

27 Q: Hadn't met with them yet, but wanted to meet?
28

29 A: Right. So Brandon was giving me a heads up that the Chief was actually
30 going to come down to the 18th Floor, their office and discuss this stuff with them.
31 And again, he didn't go back and regroup and call me, he called Sgt. Brandon
32 Luth. So I apologized to Brandon, I said, I'm home, if I had known this was
33 coming I wouldn't have left. I thought we were done. I said, but, listen to what
34 he's got to say. Obviously, be respectful and don't be insubordinate, but if at the
35 end you still don't have probable cause, we still can't do a search warrant, and if
36 that's uncomfortable for you talking to him, then call me. So, about an hour and a
37 half later he calls me back and says that the Chief outlined it for him in such a
38 way that he feels more comfortable with it. You know, he said, I think it's, you
39 know, we have probable cause here, I think it's going to be okay. He wants us to
40 stay here all night and write the affidavit up and then go have it signed first thing
41 in the morning and then we'll do the search warrant, you know, 7:00, 8:00 in the
42 morning we're going to do this. I said okay. Here's what I need you to do. Write
43 the affidavit it, review it, if you're not 100% sure that you have probable cause on
44 this thing, because I'm still skeptical based on what I heard in the meeting I had,
45 you need to call me and let me know, or if it's in the morning hours, I will call

1 Ken Holmes, who is covering for me, and make him aware of what's going on, he
2 can come in in the morning, you can give him the affidavit to take a look at and if
3 he tells you it's good to go then you're good to go. If he tells you wait a minute,
4 you're still missing some things here, this is a problem, then we'll approach that
5 when we get to it.
6

7 Q: Let me stop you for just a second. When Luth called you after the meeting
8 with Hendershott, he said that Hendershott had basically outlined what he
9 understood to be, that is Hendershott understood to be the facts, and Luth said he
10 felt a little bit more comfortable with it?

11
12 A: Correct.

13
14 Q: Did he say that he felt totally comfortable with it, or enough to actually
15 start crafting the search warrant affidavit?
16

17 A: Well, he was using the words like, that he feels okay with it. But I was
18 still, and I don't know if it's my own perception because of the meeting I just had,
19 and there was just no way. But I was still feeling like there is some apprehension
20 here, that's why I kept saying, listen, here's some options and some avenues for
21 you to take. And I thought Ken was probably his best route because, you know,
22 you're a Sergeant, put that on a Captain to look at in the morning and go back to
23 the Chief and tell him, not doing it. So I called Ken Holmes and I gave him a
24 heads up on what had happened, briefed him on the whole scenario and had him
25 plan on going in earlier than he normally does, to be available to read the search
26 warrant. And that's where it was left. And the next phone call I got was from
27 Brandon Luth in the morning. He didn't wait to run it past me anymore, he didn't
28 have Ken Holmes review it, he and the guys wrote it up, they took it out to the
29 judge, they got it signed and somebody called me and said, the judge reviewed it,
30 he signed it, we're good to go. I said, okay. You know, if you're telling me, I
31 mean you're the Sergeant, you're there, you're telling me you have new
32 information and it's all together and you're comfortable with it, then I'm just
33 going to have to take your word for it, but I can't help you if I'm, you know, if
34 you're doing something that's not, you're not comfortable with, I can't help you if
35 you're not telling me, I'm just uncomfortable because the information I got last
36 night wasn't sufficient. He said, well, we got Loretta Barkell on the phone and
37 she gave some new information and tied some things together and so it just makes
38 better sense now, and I think we're fine. I said, okay. (pp. 46-49, Exhibit II45a)
39

40 Later, Young received information that the information that Loretta Barkell had provided
41 had not been properly characterized in the search warrant affidavit. Young did not
42 speak with Loretta about the situation, but he did speak with Hendershott.
43

44 Q: Did you ever speak to Hendershott about it?
45

1 A: Yes. I didn't read the affidavit, I didn't speak to him in any detail, just
2 that, you know, now that this is taking place, the rumblings are going on up here
3 are that this affidavit was not actually sufficient and probably shouldn't have been
4 followed through with, and he said that's, I want to say he said, fucking Freeman,
5 I'm pretty sure. But, you know, those guys don't know probable cause and its
6 fine. I mean I've had attorneys look at this thing, the judge signed it, it's totally
7 good, there's no problem.

8
9 Q: And your response?

10
11 A: Okay. (p. 50, Exhibit II45a)

12
13 **David Hendershott**

14
15 Hendershott acknowledged that he did have a discussion with Freeman, Young and
16 Knight about the affidavit for the search warrant for Calence, and that they expressed
17 that in their opinion, there was no probable cause, "based on what they knew and what
18 the guys in MACE knew." (p. 51, Exhibit II16f) However, Hendershott knew what had
19 occurred, and as he put it, "I knew that there was probable cause." After he had
20 received the negative response from Freeman, Young and Knight, he went down to the
21 MACE Unit and spoke with the MACE Detectives and Sergeants, although he could not
22 identify personnel by name. Hendershott did ask one of the personnel, possibly
23 Sergeant Rich Johnson, whether he had contacted Bob Rampy or Loretta Barkell.
24 Hendershott indicated that the information that he had passed down the chain to the
25 MACE personnel, had established the probable cause, was information that Rampy had
26 obtained from a confidential informant, if not two confidential informants. According to
27 Hendershott, Loretta Barkell, in prior conversations with Hendershott, had told her that
28 the Board of Supervisors had called a transaction a donation, and in fact it was not a
29 donation but a deferred payment. According to Hendershott, the Board of Supervisors,
30 tried to "hide the fact that this donation really was an indirect purchase of services so
31 Calence could come in and intrude into Zone 2." (p. 52, Exhibit II16f)

32
33 While in the MACE offices, Hendershott called Loretta Barkell he described what
34 happened in this conversation as follows.

35
36And, right there in front of everybody, and I thought it was, I think it was
37 instructional, I said, like with Loretta, Loretta, I'm sitting here with a cast of
38 thousands and we're working on a search warrant and nobody provided, we
39 needed a little bit of the information, so the affiant sat there and I said, I don't
40 remember. I probably said his name. I said, the affiant on the search warrant is,
41 whoever it was, and I said, Loretta, what they need is the information that you
42 came by and your expertise as a long time budget person that says that this in fact,
43 and she learned this from the county CFO, that it was not a donation contrary to
44 what the Board of Supervisors said in a public meeting. And that in fact it was a
45 credit. And then Loretta said some other things about what, what in fact and the

1 phone conversation was in front of everybody. Okay? Because it was on speaker
2 phone off of one of the phones in the middle of the table. (pp. 52-53, Exhibit
3 II16f)
4

5 After speaking with Loretta Barkell (Hendershott says the conversation was not
6 recorded) he called Bob Rampy, and obtained additional information. Hendershott
7 claims that by the end of these two telephone conversations, the information that he
8 originally told the MACE Detectives to get, but they had not, had been obtained. The
9 Detectives had not previously spoken with Barkell and Rampy, as Hendershott had
10 suggested. Hendershott indicated that the key information, to establish probable cause,
11 came from Rampy and Loretta Barkell.
12

13 Hendershott indicated that he did not review the search warrant affidavit that had been
14 prepared in part based on information provided by Rampy and Barkell. He trusts, but
15 does not know, because he did not read it, that the search warrant affidavit was an
16 accurate reflection of the information that Barkell provided.
17

18 Our discussion turned to why MACE had used Judge Orr, the JP at the University Lakes
19 Justice Court, to get its search warrants signed, as opposed to Superior Court.
20 According to Hendershott, Andy Thomas has basically indicated to the Sheriff that
21 MCSO was not getting a fair shake (at Superior Court), and that Judge Mundell had put
22 out an order that any search warrants were to be cleared through her office. This was
23 of concern, because MCSO was basically looking at her as a suspect, and she had
24 gotten information that the search warrant was in part going to be on her. According to
25 Hendershott, Judge Orr is the presiding criminal Justice of the Peace in Maricopa
26 County. Hendershott denied having any knowledge or information as to whether there
27 had been any historic issues, problems or conflicts between Judge Orr and Don
28 Stapley. Hendershott denies ever having met Judge Orr.
29